



IN THE MATTER OF:

Complainant,

Charge No.: 2003CH2695

HUD No.: 05-03-0358-8

ALS No.: 04-170

Respondent.

On or about March 28, 2003, Complainant, Darel Davis, filed a charge of discrimination with the Illinois Department of Human Rights (IDHR). That charge alleged that Respondent, Gregory Wilson, discriminated against Complainant on the basis of her familial status when he refused to rent a house to her.

Respondent failed to file a verified response to Complainant's charge, despite being reminded of that obligation on more than one occasion. In addition, even though he was served with notice of the conference, Respondent failed to attend the IDHR's fact finding conference. As a result, the IDHR issued a Notice of Default against Respondent and filed a Petition for Hearing to Determine Complainant's Damages with the Illinois Human Rights Commission. The Commission granted the IDHR's petition, and the requested hearing on damages was held on July 14, 2004.

Despite being served with notice, Respondent did not appear at the scheduled damages hearing. Complainant, though, appeared *pro se* and presented her evidence. The matter is ready for decision.

The following findings of fact were derived from the record file in this case and from the evidence presented at the damages hearing.

1. On or about January 28, 2003, Complainant, Darel Davis, attempted to rent a house from Respondent, Gregory Wilson. The house in question was located at 10044 South LaSalle Street in Chicago.

2. Complainant has seven children.

3. Complainant was filling out a rental application when Respondent asked her how many children she had. When she told him she had seven children, Respondent told her that he could not rent the house to her because she had too many children. He also told her that if she had had two or three children, things would be different.

4. The house that Complainant attempted to rent from Respondent has five bedrooms.

5. Because of Respondent's refusal to rent to her, Complainant was upset and had to spend two additional months living with her children in an unacceptable dwelling. In addition, she had to spend approximately one hundred dollars going to other places to try to find a place to live.

CONCLUSIONS OF LAW

1. Complainant is an "aggrieved party" as defined by section 1-103(B) of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (hereinafter "the Act").

2. As a result of the default entered against Respondent, there are no liability issues to address.

DISCUSSION

On May 12, 2004, a panel of the Human Rights Commission entered an order of default against Respondent, Gregory Wilson. As a result of that order, there are no liability issues to address. Only damages issues remain to be determined.

Although liability is not an issue, a basic overview of the facts is necessary to a meaningful discussion of the appropriate damages. Complainant, Darel Davis, attempted to

rent a house from Respondent. While Complainant was filling in the rental application, Respondent asked her how many children she had. She told him she had seven. At that point, Respondent told her that he could not rent the house to her because she had too many children. He also told her that if she had two or three children, things would be different. Complainant pointed out that the house in question had five bedrooms, but Respondent refused to rent to her.

As a result of Respondent's refusal to rent his house to her, Complainant was emotionally upset and had to continue to live in an unacceptable home for two more months. She also had to spend approximately one hundred dollars in her effort to find an alternative place to live.

Those facts provide a framework for recommendations on damages. Clearly, Complainant should be reimbursed for the expenses she incurred finding a new home. Based on her best estimate, that amount is \$100.00.

Complainant should not be awarded the rent she paid before she found her new home. After all, the goal of the Human Rights Act is to put victims of discrimination in the same position they would have been in absent the discrimination. During the two months she looked for a new place to live, Complainant would have had to pay rent somewhere. There is nothing to indicate that the rent she paid was higher than it would have been in the house which Respondent refused to rent to her. Therefore, there is no basis for an award based on rent payments.

Generally, the Commission presumes that recovery of pecuniary losses is enough to compensate a prevailing complainant for any emotional distress. See ***Smith and Cook County Sheriff's Office***, 19 Ill. HRC Rep. 131 (1985). Moreover, there is no presumption of damages based upon a civil rights violation. ***Kauling-Schoen and Silhouette American Health Spas***, ___ Ill. HRC Rep. ___, (1986SF0177, February 8, 1993). Nonetheless, the

Commission will award damages for emotional distress when it is clear that reimbursement of out of pocket expenses will not adequately compensate the complainant. ***Kincaid and Village of Bellwood, Bd. Of Fire/Police Commissioners***, 35 Ill. HRC Rep. 172 (1987).

In this case, it is clear that recovery of her home-search expenses will not fully compensate Complainant. She testified that Respondent's refusal to rent to her put her "in a bind" because the place she had been living "was horrible" and that she "had to get out of there fast." She also testified that it hurt for Respondent to turn her down the way he did. She conceded that her emotional distress did not last long, but it is easy to accept that Respondent's actions caused her more pain than can be compensated with reimbursement of her out of pocket expenses. As a result, it is recommended that she be awarded \$500.00 as compensation for her emotional distress.

Complainant specifically requested that Respondent be educated in this area of the law. The IDHR's Human Rights Training Institute provides training to potential respondents to prevent future civil rights violations. It is recommended that Respondent be required to attend such training. In addition, Respondent should be ordered to cease and desist from future discrimination on the basis of familial status.

RECOMMENDATION

Based upon the foregoing, it is recommended that an order be entered awarding the following relief:

- A. That Respondent pay to Complainant the sum of \$100.00 as reimbursement for out of pocket expenses incurred by Complainant as a result of Respondent's actions;
- B. That Respondent pay to Complainant the sum of \$500.00 as compensation for the emotional distress suffered by Complainant as a result of Respondent's actions;
- C. That Respondent be required to attend training from the IDHR Human Rights Training Institute;

D. That Respondent be ordered to cease and desist from further discrimination on the basis of familial status.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: August 31, 2004